

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MARK T. EDDINGSTON,
JEFFERY M. DAVIS,
ELDRIDGE NICHOLAS BOLlich, and
RAY A. COX,

Plaintiffs,

v.

UBS FINANCIAL SERVICES INC.,

Defendant.

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CIVIL ACTION NO. 2:12-CV-00422

**DEFENDANT UBS FINANCIAL SERVICES INC.'S RENEWED MOTION TO
DISMISS PLAINTIFFS' COMPLAINT AND COMPEL ARBITRATION**

Defendant UBS Financial Services Inc. (UBSFS), through its undersigned counsel, respectfully renews its motion to dismiss plaintiffs' complaint and compel arbitration (Dkt. 31), which is incorporated herein.

The named plaintiffs—Mark T. Eddingston, Jeffery M. Davis, Elridge Nicholas Bollich, and Ray A. Cox—filed the complaint in this Court on August 3, 2012. Dkt. 1. Subsequently, UBSFS moved to dismiss plaintiffs' complaint and compel arbitration, noting that each plaintiff had agreed “to arbitrate on a non-class basis the very same claims asserted in their [c]omplaint.” Dkt. 31. In a bench ruling, the magistrate judge denied UBSFS's motion, and the Court then rejected UBSFS's motion for reconsideration. Dkts. 46, 119. UBSFS appealed the Court's decision to the Fifth Circuit. Dkt. 135. In an opinion issued on November 11, 2013, the Fifth Circuit, holding that plaintiffs had agreed to arbitrate the claims at issue, reversed the order denying UBSFS's motion to dismiss plaintiffs' complaint and compel arbitration, and remanded the case to this Court for an order compelling arbitration. *See* Exhibit A. The mandate issued on December 3, 2013. *See* Exhibit B.

In light of the Fifth Circuit's mandate, UBSFS requests that the Court dismiss the complaint in this case and order plaintiffs to arbitrate their claims.

Date: December 6, 2013

Respectfully submitted,

/s/ Eugene Scalia

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*Attorneys for Defendant UBS Financial
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CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served on all counsel of record the foregoing Defendant UBS Financial Services Inc.'s Renewed Motion to Dismiss Plaintiffs' Complaint and Compel Arbitration using the CM/ECF system pursuant to Local Rule CV-5(a)(7)(C) on December 6, 2013.

/s/ Eugene Scalia
Eugene Scalia